



State of Idaho
DEPARTMENT OF HEALTH AND WELFARE
Division of Environmental Quality

AVESF 1.1.1

2110 Ironwood Parkway
Coeur d'Alene, ID 83814
(208) 667-3524

CECIL D. ANDRUS
Governor
RICHARD P. DONOVAN
Director

March 31, 1989

Mr. Bill Dameworth
Pottlatch Corporation
P. O. Box 1016
Lewiston, ID 83501

RE: Avery Landing Petroleum Contamination

Dear Mr. Dameworth:

The Deputy Attorney General has reviewed the information pertaining to the Avery Landing petroleum contamination in regard to the legal basis for requiring cleanup of a nonhazardous waste site. This review was requested of the Attorney General's Office after the meeting on December 15, 1988.

Specific sections of the Idaho Water Quality Standards which apply include the following:

- *IDAPA 16.01.2850 Hazardous Material and Petroleum Product Spills
 - .01- Stop continuing spills
 - .02- Contain material
 - .03- Department notification required
 - .04- Collect, remove, and dispose
- *IDAPA 16.01.2200 General Water Quality criteria
 - .02 Deleterious materials

In particular, IDAPA 16.01.2850.04 speaks to the need for cleanup of the petroleum contamination.



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Mr. Bill Dameworth, Potlatch-Lewiston
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The following sections from the Idaho Code address the issue of responsibility of current property owners:

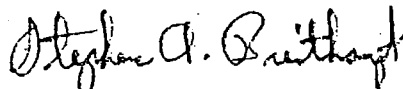
- *Idaho Code 52-101 Nuisance defined
- *Idaho Code 52-111 Actions for nuisance
- *Idaho Code 52-109 Liability of successive property owners for continuing nuisance

The gist of the State's position is there has been a spill of petroleum product, which is continuing to leak into State waters. The Water Quality Standards require this to be stopped, contained, collected, removed and disposed. The petroleum is regarded as a deleterious material and a nuisance. Successive property owners who neglect to abate a nuisance created by a former owner are liable in the same manner as the one who first created it.

We believe this information to be satisfactory in addressing your question on responsibility of cleanup. We now ask that you respond in writing within 15 days as to the plan of action for cleanup of the spilled material. The good faith you have shown in participating in efforts to cleanup the spill is laudable. Your continuing cooperation, as well as that of the other responsible parties, is greatly appreciated.

Sincerely,

DIVISION OF ENVIRONMENTAL QUALITY



Stephen A. Breithaupt
Senior Water Quality Specialist

SAB:db

c: Paul Jehn/Susan Martin, IDHW-DEQ, Boise
Ed Tulloch, IDHW-DEQ, CDA
Dave Theriault, Box 126, Avery 83802
Allan Stockman, Fed. Hwy Admin., 610 E. 5th, Vancouver, WA 98661
Pat Allen, Shoshone Co. Public Works, P. O. Box 708, Wallace 83873
Alex Tula, Hart Crowser, 1910 Fairview Av. E., Seattle 98102-3699
Susan Burke, Deputy Attorney General, Legal Services Div., Boise